**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR**

**MONDAY, THE 19TH FEBRUARY 2007 / 30TH MAGHA 1928**

**WP(C).No. 5437 of 2007(V)**
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**PETITIONER:**
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**K.J. DEVASIA, DINU ELECTRICALS,**
**KOLLAMPADY, CHITRAPUZHA, IRIMPANAM,**
**ERNAKULAM.**

**BY ADV. SRI.M.K.SUBHAKARAN**

**RESPONDENTS:**
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**1. INSPECTING ASSISTNAT COMMISSIONER**
**COMMERCIAL TAXES, CIVIL STATION,**
**KAKKANAD, KOCHI-30.**

**2. DEPUTY COMMISSIONER (APPEALS)**
**COMMERCIAL TAXES, SALES TAX OFFICE COMPLEX,**
**PERUMANOOR P.O., KOCHI.**

**3. ASSISTANT COMMISSONER (WORKS CONTRACT)**
**OFFICE OF THE DEPUTY COMMISSIONER**
**COMMERCIAL TAXES, PERUMANOOR P.O.,**
**KOCHI.**

**BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**WP(C) NO: 5437/2007 V**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1. COPY OF THE ASSESSMENT ORDER DT. 27/10/2006 AND DEMAND NOTICE DT. 28/11/2006.**

**EXT.P2. COPY OF THE DEMAND NOTICE DT. 30/1/2007.**

**EXT.P2A. COPY OF THE APPEAL AND PETITIONS DATED 22/1/2007 FILED BEFORE THE R2.**

**EXT.P3. COPY OF THE STAY ORDER NO. STA 24/07 DT. 2/2/2007 OF THE R2.**

**EXT.P4. COPY OF THE APPLICATION, LOCAL DELIVERY BOOK (PAGE 20)**

**EXT.P5. COPIES OF THE WORK ORDERS DATED 22/2/2002, 09/5/2002, 10/07/2002.**

**EXT.P6. COPY OF THE STATEMENT OF LOCAL PURCHASE MADE FOR RS. 29,20,686.63. BY PETITIONER'S FIRM.**

**EXT.P7. COPIES OF THE ASSESSMENT ORDERS DT. 24/08/2005, 23/6/2001, 23/6/2001.**

**[ True Copy ]**

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K.BALAKRISHNAN NAIR, J.

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WP(C).No.5437 of 2007-V

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Dated this the 19th day of February, 2007.

**JUDGMENT**

The petitioner has approached this court challenging, inter alia, Ext.P3 interim order as per which he has been directed to pay Rs.5 lakhs and to furnish security for the balance amount as a condition for stay pending disposal of Ext.P2 appeal filed against Ext.P1 assessment order. The petitioner submits, he is a contractor providing labour works and no goods are transferred while executing the contract and therefore he is not liable to pay any tax. Going by the assessment relating to previous years, the maximum tax paid by him is around Rs.49,000/-. In some years it has come down to Rs.5,000/-. He further submits, though he filed returns, the assessing authority proceeded on the footing that he has not filed any returns and arbitrarily fixed the turnover. Other contentions are also raised.

2. I heard the learned Government Pleader for the respondents also.

3. Having regard to the facts of the case, I feel that interest of justice will be met, if the petitioner pays Rs.50,000/- (Rupees fifty thousand only) and furnishes security for the balance amount, to the satisfaction of the assessing authority. The amount shall be paid on or

before 28-2-2007 as directed in Ext.P3. On furnishing security for the balance amount, recovery pursuant to Ext.P1 will remain in abeyance till the disposal of Ext.P2 appeal. The petitioner shall co-operate with the second respondent for the early disposal of the appeal. The said respondent shall dispose of the appeal as expeditiously as possible.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR,
JUDGE.

MS